IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

Bail Appl..No. 3704 of 2007()

C.C.NO.843/05 IN CRIME NO.709/2005 OF KASARAGOD POLICE STATION ON THE FILE OF THE CHIEF JUDICIAL MAGISTRATE COURT, KASARAGOD.

PETITIONER/ACCUSED

P.K.THAHA, S/O.P.KHALID, VADAKKUMBATH,
CHEMNAD, KASARAGOD.

BY ADV. SRI.T.B.SHAJIMON

RESPONDENTS: COMPLAINANT

STATE OF KERALA. REP. BY OF THE
SUB INSPECTOR OF POLICE, KASARAGOD
POLICE STATION, REP. BY THE PUBLIC PROSECUTOR,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.3704 of 2007

Dated this the 20th day of June 2007

O R D E R

Application for anticipatory bail. The F.I.R was registered raising allegations inter alia under Sections 324 and 308 read with 149 I.P.C. In the course of the investigation, the allegation under Section 308 I.P.C was dropped. Investigation is complete. Final report has already been filed. Cognizance has been taken on offences punishable inter alia under Section 324 read with 149 I.P.C. The case has been registered as C.C.No.843/2005. The petitioner has not appeared before the learned Magistrate. Consequently a warrant of arrest has been issued against the petitioner.

2. The learned counsel for the petitioner submits that directions under Section 438 Cr.P.C may be issued in favour of the petitioner. I find absolutely no reason to invoke the powers under Section 438 Cr.P.C. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier

appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs.Deputy Superintendent of Police [2003(1)KLT 339].

3. In the result, this petition is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007